



# INDUSTRY CIRCULAR

DEPARTMENT OF  
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Washington, D.C. 20226

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## RECORDKEEPING REQUIREMENTS FOR NONBEVERAGE DOMESTIC DRAWBACK CLAIMANTS

Manufacturers of nonbeverage products  
and others concerned:

Purpose. Manufacturers who file claims for drawback of tax on distilled spirits used in the manufacture of nonbeverage products are referred to in the Internal Revenue Code of 1954 as nonbeverage domestic drawback claimants (26 U.S.C. 5131-5134). This circular is issued to remind such claimants that they are required to maintain records which comply not only with the specific recordkeeping requirements of subpart H of 27 CFR Part 197, but also with the more general requirements of 26 U.S.C. 5132.

Background. During a number of recent investigations conducted by ATF for the purpose of ascertaining the correctness of nonbeverage drawback claims, some doubt arose over whether the claimants, at the time of manufacture, possessed sufficient raw materials to produce the quantities of nonbeverage products reported produced. ATF inspectors, seeking to establish that such manufacture did occur, requested the claimants to present all available records which might be used to verify that sufficient quantities of raw materials were in the possession of the manufacturer. It was anticipated that the sufficiency of raw materials could be established by examination of records reflecting the purchase, use, loss, and inventory of such materials.

The claimants were reluctant to provide the requested records, expressing the view that the only records which ATF has the authority to examine are those records specifically prescribed in 27 CFR Part 197, subpart H. None of the regulations in that Subpart require that records be maintained pertaining to raw materials (other than for distilled spirits).

Recordkeeping Requirements. It is clear from an examination of statutory provisions that records of all raw materials must be maintained, based on the following:

1. 26 U.S.C. 5132 provides, in part, that a claimant must "keep such books and records as may be necessary to establish" that he has used distilled spirits in the manufacture of products which are eligible for drawback; i.e., medicines, medicinal preparations, food products, flavors, or flavoring extracts, which are unfit for use for beverage purposes.

The words "as may be necessary" encompass the requirement that the claimant maintain records of all raw materials, since sufficiency of raw materials is directly related to the use of distilled spirits in manufacturing products which are eligible for drawback.

2. 26 U.S.C. 5133 provides, in part, that ATF has the right to examine any books, papers, records, or memoranda having to do with statements or figures required to be stated in the claim. It is clear that Congress intended that a claimant of nonbeverage domestic drawback would maintain such papers. Otherwise, establishing the right to examine them would be without substantive effect.

In summary, claimants must maintain records "as may be necessary" to establish that they used distilled spirits to manufacture products which are eligible for drawback. Some of the kinds of records which are deemed necessary for the manufacturer to maintain are records of raw materials purchased, used, lost, etc. The record of materials purchased might consist simply of copies of invoices, or some other form of record would also be acceptable if it showed the amounts of materials purchased, the dates of purchase, from whom purchased, etc. Examination of such records represents a legitimate claim investigation procedure which cannot be denied to ATF if the Government is to be protected against fraud in matters pertaining to nonbeverage drawback claims.

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to the Assistant Director (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

  
Director